

## **REMARKS**

Claims 1-21 and 23 are pending in the application with claim 1 being amended herein.

### **Introduction**

Applicants note with appreciation the withdrawal of the rejection under the judicially created doctrine of obviousness-type double patenting.

### **Rejections under 35 U.S.C. §112, 1<sup>st</sup> paragraph**

The Examiner rejects claims 1-21 and 23 with the assertion that that the amendment to the claims to add the feature, “wherein the specificity of the extendible fragment is determined by the sequence of the target nucleic acid” has no support in the specification. Claim 1 has been amended to replace the phrase in question with “wherein the ~~specificity~~ **sequence** of the extendible fragment is determined by the sequence of the ~~target~~ **template** nucleic acid”. Support for this amendment may be found in the specification at least at page 8, line 20, through page 9, line 2, as well as page 37, lines 4-16. In addition, the amended phrasing is the commonly used nomenclature of the field of the invention and would be viewed by those skilled in the art as implicit from the disclosure. Withdrawal of the rejection is respectfully requested.

### **Rejections under 35 U.S.C. §112, 2<sup>nd</sup> paragraph**

The claims have further been rejected under 35 U.S.C. §112, 2<sup>nd</sup> paragraph for being unclear with regard to the amended phrase, “wherein the specificity of the extendible fragment is determined by the sequence of the target nucleic acid”. The claims have been amended as discussed above to address this issue.

The claims have also been rejected for lacking antecedent basis for “the target nucleic acid.” As noted above, “target” nucleic acid has been replaced with “template” nucleic acid. Withdrawal of the rejection is respectfully requested.


**Rejections under 35 U.S.C. §102**

The Examiner maintains the rejection of claims 1-21 and 23 as being anticipated by Dianov et al. The Examiner states that "Since the newly added limitation is unclear what it means as set forth in section 4 above, the teachings of Dianov et al. still anticipate the limitation of the claims." The claims have been amended as indicated above to more clearly define the features of the invention. Applicants request reconsideration of the arguments submitted on February 24, 2005 and entered with the filing of the RCE on April 22, 2005, in view of the above clarification of the claims, and withdrawal of the rejection.

If there are any questions regarding the present application, the Examiner is requested to please contact the undersigned.

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Respectfully submitted,

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